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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission

In the Matter of	)	
	)	
Implementation of Section 10 of the Cable Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-263
	)	
Consumer Protection and Customer Service	)	

JOINT COMMENTS

VIACOM INTERNATIONAL, INC.
PROVIDENCE JOURNAL COMPANY
MULTIVISION CABLE TV CORP.
CABLEVISION INDUSTRIES, INC.

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January 11, 1993

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SUMMARY

The Companies support the adoption of customer service standards. The suggestions made in these comments are intended to insure a reasonable level of nationwide customer service quality while affording cable operators and their local officials sufficient time and flexibility to tailor customer service policies and procedures to fit the unique needs and circumstances of particular systems and communities and while avoiding the pitfalls of dramatically differing or conflicting local standards.

The Companies suggest implementation of customer service regulations in three phases:

(i) immediate adoption by the Commission of self-effectuating basic, national standards to guarantee a fundamental, national "floor" for customer service quality in communities without formal standards while more comprehensive, local standards are established;

(ii) adoption by the Commission of more comprehensive standards based on the NCTA Recommended Cable Industry Customer Service Standards (with certain clarifications and modifications, including a small system exemption from select aspects of the standards only) that could be adopted by local franchising authorities and would go into effect within a year after local adoption; and

(iii) negotiation of standards or requirements that exceed the FCC's comprehensive standards by local

franchising authorities and their franchisees at franchise renewal or interim renegotiation sessions.

The Companies suggest two options for dealing with conflicting local requirements for systems serving multiple communities: (i) recourse to an FCC waiver proceeding when an operator is confronted with a serious potential conflict in local requirements; or (ii) leaving conflicts to be resolved by the operator, who would be free to select from among the conflicting options proposed.

The Companies urge the Commission to adopt certain standards for remedies and penalties that would guarantee due process in every situation.

Finally, the Companies urge that the Commission extend the comprehensive customer service requirements to other video programming distributors that engage in activities to which the standards apply, with enforcement handled by an FCC complaint process where there is no local franchising authority with jurisdiction.

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To: The Commission

JOINT COMMENTS

Viacom International Inc., Providence Journal Company,[1] Multivision Cable TV Corp. and Cablevision Industries, Inc. (hereinafter "Companies"), by their attorneys, hereby submit their Joint Comments in response to the above-captioned Notice of Proposed Rulemaking ("Notice"). Each of the Joint Parties is an owner and operator of cable television systems and, accordingly, will be directly affected by the outcome of this proceeding.

I. INTRODUCTION

Each of the Companies is committed to quality customer service.[2] All are constantly seeking and implementing new

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[1] Providence Journal Company conducts its cable television operations through its subsidiaries Colony Communications, Inc. and King Videocable Company.

[2] All of the Companies' systems have formal customer service policies in effect, either as a result of existing local franchise requirements or pursuant to the NCTA's voluntary program of Recommended Cable Industry Customer Service Standards. The few cases in which any Company's systems either are not certified under the NCTA Standards or actively working toward meeting the specific requirements involve small systems, typically in isolated areas. Even these systems, however, adhere to local standards and company-imposed requirements.

and better procedures to respond quickly, efficiently and effectively to their customers, not because they are required to do so but because doing so makes good business sense. Accordingly, the Companies support the adoption of FCC customer service standards. The suggestions contained in these comments focus on allowing cable television companies sufficient flexibility to tailor customer service programs to the unique needs of the communities they serve in a reasonable, cost-effective manner.

Most cable systems serve more than one community and many serve as many as ten or more jurisdictions. Thus, a patchwork of widely differing, even conflicting, customer service standards would create an impossible situation. Accordingly, the recommendations set forth below seek involvement of the FCC in setting uniform national standards for certain aspects of customer service with departures permitted when justified.

II. IMPLEMENTATION

The Companies believe that new regulations can be designed to: (i) provide almost immediately for a fundamental level of customer service to exist in all communities - - even those that do not presently have customer service standards in place; (ii) insure a level of customer service based on the NCTA standards by all systems within a year after local adoption; and (iii) permit all communities to negotiate standards that exceed those recommended by the NCTA. Furthermore, the Companies believe that by following the approach suggested below, these objectives can be achieved smoothly and expeditiously, without adversely affecting subscriber rates or placing undue burdens on cable operators.

A. Fundamental Customer Service "Floor": The Companies concur that every subscriber is entitled to expect a certain level of responsiveness in customer service, whether or not local officials in a particular community have negotiated or adopted express standards or requirements. Thus, each cable system, regardless of size or circumstances, should be required to adopt and implement a written customer service policy that addresses seven essential aspects of customer service listed in Attachment A and to file the policy with its local franchising authority within 90 days after the new rules become effective. (The model policy itself requires the system to inform subscribers of customer service procedures.)

These standards should be imposed by FCC regulation. They would be "self-effectuating" in that there would be no need for further action by the local franchising authority.[3]

[3] Self-effectuating FCC standards at an initial threshold level would obviate the need for administratively burdensome individual franchise amendments and would avoid potential disputes regarding the ability of franchising authorities to impose such requirements unilaterally.

(This "floor" would not preempt or displace existing local customer service standards, but would be there for subscribers in communities without formally articulated standards.) For reasons explained below, a reasonable phase-in period is advisable for more detailed customer service requirements. The FCC-imposed "floor" would insure that Congressional concerns about customer service are addressed on an interim basis while local officials who wish to do so put more comprehensive standards in place.

B. FCC Customer Service Standards: The Act requires, and the Companies agree, that any requirements beyond a basic national "floor" should be implemented by local franchising authorities. For many systems that have not already done so, coming into compliance with such standards will entail substantial added costs. As the Commission recognizes, this can impact rates. Local franchising authorities have an obvious interest in whether and how such costs are incurred and the end result of the investment.

Standards of the sort contemplated by the statute are contained in the NCTA Recommended Cable Industry Customer Service Standards, and the Companies recommend that the Commission adopt those standards as outlined in Attachment B. These more detailed and comprehensive standards would be implemented through adoption by the local franchising authority, with a one-year phase-in period following adoption.

C. Local Standards Exceeding FCC Standards: The Act provides for local standards that exceed those adopted by the FCC to be negotiated between the cable operator and the local franchising authority. These could be negotiated at franchise renewal time, or, with the agreement of the parties, at an earlier time when renewal or another official opportunity for renegotiation is not scheduled to occur within a reasonable time.

D. "Escalating Standards": The Companies oppose rules that would establish a moving target of escalating requirements that take effect when a certain level of compliance is reached. Given the rapid and constant changes in communications technology, it is extremely difficult to accurately anticipate needs to be met or resources that may become available to meet them very far into the future. If future technological developments or other changes in industry practices warrant changes in the customer service standards, the Commission can always amend its rules. In addition, local franchising authorities are free to negotiate modifications or improvements in customer service standards. In either case, new standards will be fairer and more easily achieved because all parties concerned will have a say in their adoption and implementation.[4]

III. FCC STANDARDS

The Companies recommend that the Commission base its standards on the NCTA Recommended Cable Industry Customer Service Standards with a few clarifications that are set forth in Attachment B. The more noteworthy clarifications or additions to the Industry Standards that the Companies would have the FCC adopt are discussed below.

A. Definition of Key Terms: The Companies believe there are several key terms that are undefined in the present Industry Standards and urge the Commission to define them when those standards become part of its rules.

1. "Normal Business Hours:" The Office and Telephone Availability Standards require cable company representatives to be available to respond to customer telephone inquiries and service center and bill payment locations to be open for transactions Monday through Friday "during normal business hours." For the cable industry, as for most businesses, normal business hours are between 9 a.m.

[4] Such an approach also might be a disincentive to achieving compliance. Instead of being rewarded for good performance, systems that met the standards would immediately be saddled with additional costs and more burdensome obligations.

and 5 p.m. The Companies advocate adoption of the customary nine-to-five business day for this definition.[5]

The Companies recognize, however, that peak television watching time does not always coincide with "normal business hours". As is customary in the industry, the Companies all provide the means for subscribers to report outages or other service problems during extended hours, and it may be appropriate for franchising authorities and cable companies to negotiate such standards. Phone availability for trouble calls should not be confused with business phone availability, however. Thus, normal business hours for both office and phone availability can fully accommodate customer requests for installation or changes in service, payments or billing inquiries, requests for information on programming and the like. Expanded hours for trouble calls should be subject to negotiation.

2. "Normal Operating Conditions:" Under the Companies' proposal as under the NCTA guidelines, it is not reasonable to expect cable systems to meet certain standards when extreme or emergency conditions exist. The Commission should define "normal operating conditions" to exclude events that are outside the operator's reasonable control such as natural disasters such as earthquakes, floods or landslides;

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[5] This definition refers only to the foundation on which the standards are based. See discussion of supplemental hours on page 8, infra.

storms or other weather emergencies; epidemics; strikes and civil disturbances; power outages; and satellite, computer or other major equipment failures causing system-wide or area-wide problems or outages. In addition, strict compliance should not be expected during implementation of rate increases, major changes in billing procedures or format, significant changes in the channel line-up, launches of new services, exceptional pay-per-view offerings or other isolated or unusual occurrences.

3. "System:" For purposes of the customer service standards, the Companies ask the Commission to define this term consistently with the definition of a "system" for other purposes of the Act -- all communities served from a common headend.

B. Office and Telephone Availability: Because normal business hours may vary slightly from community to community, it would be reasonable for the Commission's standards to permit local franchising authorities some flexibility automatically to impose reasonable variations in the normal nine-to-five standard. The Industry Standards provide for supplemental hours, but are not specific. The Companies support a requirement for up to five supplemental hours per week (a total of 45 hours). Supplemental hours in excess of five hours and scheduling should be subject to negotiation.

C. Measurement of Compliance: The Companies support uniform procedures for measurement of compliance. As noted above, very few cable systems serve only one community, and if each community adopts a different measurement standard, compliance will be impossible.[6] In addition, having uniform measurement standards would enable the Commission and Congress to assess performance nationwide. An annual standard provides the most meaningful appraisal because otherwise, extraordinary circumstances, would have a disproportionate impact on the overall evaluation.[7]

D. Small System Exemption: The Companies believe that all cable subscribers, regardless of their location or the circumstances in their community, deserve excellent service. System size would be the only basis that justifies any departure from the proposed standards, and then only for very limited aspects of customer service. In the Companies' experience, even small systems can comply with the majority

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[6] See discussion of conflicting local standards, *infra*, at page 12. Although the Companies recommend approaches for dealing with conflicting local standards that apply to the same cable system, such conflicts in measurement are best avoided from the outset through requiring uniform standards. Also, cable operators should be permitted to measure performance results on a aggregate basis for a system, if applicable, or whatever unit provides telephone and/or office facilities for the communities in question.

[7] As regards measurement of telephone response, any standards contained in the rules also should be based on criteria commonly used in measuring telephone system performance and should take the capability of commercially available technology into account.

of the standards. The Companies are confident of the ability of all their systems, regardless of size, to make business telephones and offices available during normal business hours, to perform standard installations within seven business days of receipt of an order, to respond promptly to service interruptions, to offer customer accommodations on scheduling of appointments and to handle subscriber communications and billing matters as provided in the proposed standards. All of this can be accomplished in a cost-effective manner that places no undue hardship on the system or subscribers.

A small system exemption is recommended, however, for just two aspects of the Office and Telephone Availability Standards for systems with fewer than 15,000 subscribers. In order to be certain of compliance with the 30 second standard for telephone answer time, special phone systems are required. These typically cost between $50,000 and $100,000 depending on whether an existing system is being totally replaced or just augmented and whether the telephone system itself will be involved in monitoring. The Companies believe that a subscriber base under 15,000 cannot readily support such an investment. In addition, to avoid busy signals in accordance with the standards, not only phone lines but additional personnel or automated answering devices would be required. This, too, would be unduly costly. We recommend that in lieu of strict compliance with standards that require installation of disproportionately expensive equipment for the size of the staff or customer base, smaller systems be required to adopt and file a policy including telephone answering time targets, procedures for minimizing busy signals and procedures for periodic compliance monitoring.[8] These smaller systems would be required to make a good faith effort to comply with their respective policies.[9]

E. Customer Communications: The Companies strongly urge the Commission to refrain from adopting a standard billing format or from prescribing particular information that must be in a subscriber bill. With the powerful motivation of receiving full, prompt payment and avoiding

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[8] In lieu of automated tracking, many smaller systems rely on subscriber "report cards" or frequent spot checks by "mystery callers" (usually company management). While not as scientific as sophisticated computer monitoring, spot checking is regularly used in other service industries and is found to be more effective even than customer satisfaction surveys. See, e.g. "A Most Satisfying Form of Research," Marketing, April 30, 1992 at p. 24.

[9] Without a small system exemption, the only option for many small systems would be to combine with other systems in a regional or even a national central answering system or service center which in many cases would be located some distance from the community served. While toll-free calling could be offered to subscribers, the ability to maintain a local office would be lost. Some of the Companies are utilizing regional service centers, but it is not appropriate in every circumstance. Providence Journal, for example, centers its cable operations on a local office and the strong community presence it provides. Operators should be permitted to determine the appropriate local presence for each system and should not be forced to abandon an on-site service facility where appropriate.

numerous billing inquiries, cable companies continuously strive to refine and improve their billing formats and to make them more easily understood by customers. In addition, a rigid billing format could complicate the implementation of innovative services or other offerings that benefit the consumer.

F. Conflicting Requirements: As noted above, most cable systems serve more than one political jurisdiction and many systems serve numerous jurisdictions. Obviously, the imposition of widely differing, possibly conflicting, standards on the same system would make compliance prohibitively costly if not impossible. This problem cannot be solved merely by providing every community customer service in accordance with the most stringent standards imposed by any community served by the system. The cost of customer service requirements ultimately will be reflected in subscriber rates, and for some communities, keeping rates lower is more important than having installation a day sooner or the office open several hours longer each day. Nor is it always feasible to rely on the negotiating process to resolve conflicts. Refusal of the community seeking the conflicting obligation to compromise may lead to an impasse in negotiations or may place the operator in the position of having to take on unreasonable or impossible obligations in order to get its franchise renewed.

Thus, there is a need for FCC involvement to avoid such stalemates. One approach would be for the Commission's rules to permit the cable operator to resolve the conflict by selecting from among the options requested by the various municipalities. As an alternative, when confronted by conflicting local demands, the operator should have the right to seek a Commission ruling as to which standard should apply or a Commission waiver of whatever local requirement or requirements are causing the problem.

IV. REMEDIES AND PENALTIES

This is another area that would benefit from a certain amount of uniformity without unduly circumscribing the authority of local officials. The Commission has recognized the need for a remedy for noncompliance other than franchise revocation or non-renewal. The Companies concur in this view. Once again, however, it does not serve the public interest to have a patchwork of conflicting and, possibly, draconian local penalties, especially for relatively trivial instances of non-compliance that are not routine occurrences. The Commission can serve a useful role in making sure that any penalty is appropriate to the offense. First, the Commission should clarify that penalties apply only in the case of material or repeated non-compliance. A threshold for the duration, frequency or repetition of failures should be prescribed. In addition, a cable operator's failure to comply with standards (for example, if only 28 rather than the required 30 days advance notice of a programming change is given) should not provide local officials an opportunity to fill local coffers. Because the intent of this provision is to protect subscribers, any monetary penalties should take the form of customer refunds or credits. Finally, local officials should be required to provide the cable company with written notice, an opportunity to be heard and a reasonable opportunity to cure instances of non-compliance before a penalty is imposed.

VI. APPLICABILITY

A final issue raised in the Notice is whether these requirements should apply to video programming distributors other than cable television systems. With consumer protection as the focus of the statutory provision being implemented, it is difficult to see how the Commission could not impose its customer service standards on any company engaged in local[10] video programming distribution, as defined by the Act. Because other local video programming distributors such as wireless cable may not be subject to the jurisdiction of local franchising authorities, the rules

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[10] The Companies recognize that most of the standards (e.g. office availability, installation and appointment windows for local service calls) are not applicable to national program distributors, which do not have a presence in the community through company-provided equipment, service requirements or local offices.

could be enforced by the Commission through receipt of complaints.

VII. CONCLUSION

If adopted, the suggestions made above would bring about the rapid implementation of a guaranteed level of quality customer service while allowing more comprehensive standards, tailored to the needs of individual communities, to be phased in on a reasonable timetable. With the existing voluntary industry guidelines as their foundation, these recommended standards would be flexible, fair and effective and would avoid subjecting systems serving multiple communities to conflicting local standards.

Respectfully submitted,

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January 11, 1993

Attachment A

1. Every cable system shall have a written customer service policy that contains the following information:

   - A local or toll-free telephone number that subscribers may call to make business inquiries, and the hours of telephone availability

   - Location and hours of availability of any local customer service center and bill payment location

   - Procedure for reporting outages or reception problems during normal business hours and after hours

   - Time period for performing installations following placement of order

   - Time period for response to service interruptions and other service problems

2. Every cable system shall file a copy of its customer service policy with its local franchising authority.

3. Every cable system will provide written information in each of the following areas to subscribers at the time of installation and at any future time upon request:

   - products and services offered
   - prices and service options
   - installation and service policies, including a copy of the customer service policy
   - how to use the cable service

Attachment B

PROPOSED FCC STANDARDS*

1. Office and Telephone Availability

A. Knowledgeable, qualified company representatives will be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, based on community needs, **cable systems and other video programming distributors will staff telephones for up to five supplemental hours per week either during the week or on the weekend (for a total of up to 45 hours per week.)**

B. Under normal operating conditions, average telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed 30 seconds **(or comparable unit commonly used for measuring telephone responses) in any cable system or other local video programming distributor serving 15,000 or more subscribers.**

Cable systems or local video programming distributors serving fewer than 15,000 subscribers shall make every effort to limit telephone answer time by a customer service representative, including wait time and the time required to transfer the call to 30 seconds. Such distributors shall adopt a policy for minimizing telephone answer time that includes procedures for periodic monitoring of performance.

Cable systems or other local video programming distributors subject to the 30 second standard that utilize automated answering and distributing equipment will limit the number of routine rings to four or fewer. **Cable systems or other local video programming distributors** not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems.

For cable systems or other local video programming distributors with 15,000 or more subscribers, this standard shall be met no less than ninety percent of the time measured on an annual basis.

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* Bold typeface indicates modification of NCTA Recommended Cable Industry Customer Service Standards.

C. Under normal operating conditions, the customer **of any cable system or other local video programming distributor serving 15,000 or more subscribers** will receive a busy signal less than three percent of the total time that the cable office is open for business **on an annual basis.**

D. Customer service center and bill payment locations will be open for transactions Monday through Friday during normal business hours. Additionally, based on community needs, **cable systems or other local video programming distributors will schedule up to five supplemental hours per week during which these centers will be open either during the week or on the weekend (for a total of up to 45 hours per week.)**

2. Installations, Outages and Service Calls

Under normal operating conditions **and excluding those situations beyond the control of the video programming distributor**, each of the following four standards will be met no less than 95% of the time measured on an annual basis.

A. Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are up to 125 feet from the existing distribution system.

B. **The cable system or other local video programming distributor operator** will respond to service interruptions promptly and in no event later than 24 hours. Other service problems will be responded to within 36 hours during the normal work week. **A "response" is receipt, notation and commencement of investigation or resolution of the problem.**

C. The appointment window alternatives for installations, service calls, and other installation activities will be (a) morning, (b)afternoon, or (c) all day during normal business hours.

D. If, at any time an installer or technician is running late, an attempt to contact the customer will be made and the appointment rescheduled as necessary at a time **during normal window alternatives** which is convenient for the customer.

2. <u>Communications, Bills and Refunds</u>

A. The **cable system or office local video programming distributor** will provide written information in each of the following areas at the time of installation and at any future time upon request:

- products and services offered
- prices and service options
- installation and service policies
- how to use the service

B. Bills will be clear, concise and understandable.

C. Refund checks will be issued promptly, but no later than the earlier of 45 days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the video programming distributor if service is terminated.

D. Customers will be notified a minimum of 30 days in advance of any rate or channel change, provided the change is within the control of the, cable system or other local **video programming distributor.**